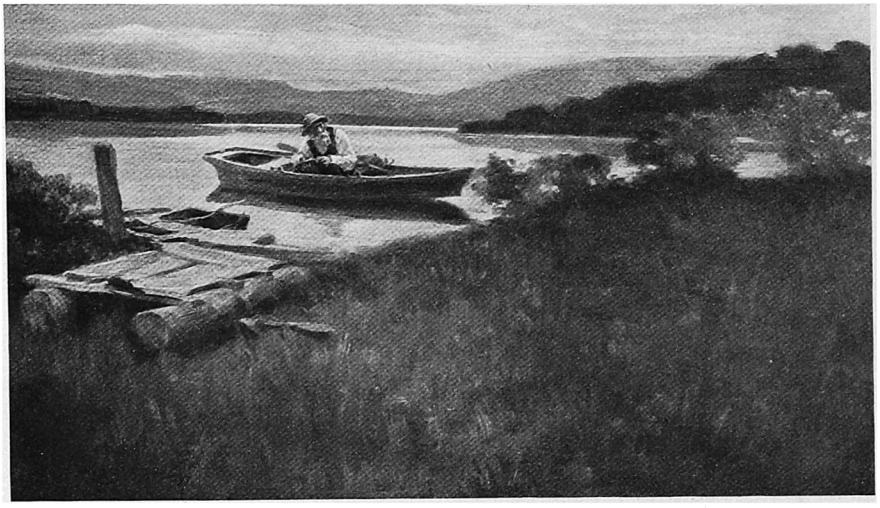
In addition to the demands of her family and home and her arduous studio work, Mrs. Stephens has from time to time kept in touch with the artistic development of the city she has adopted. She was for a season a member of the Art Section of the Civic Club, and helped in the selection of pictures for the decoration of some of the



FROM "FISHIN' JIMMY"

kindergarten public-school rooms. She has been a vice-president of the Plastic Club since the formation of that active society in 1897, and is a member of the Fellowship of the Academy of the Fine Arts.

Though Mrs. Stephens's style has long since matured, it shows no sign of declining, and it seems likely that her name will continue at the head of the list of American illustrators for many years to come.

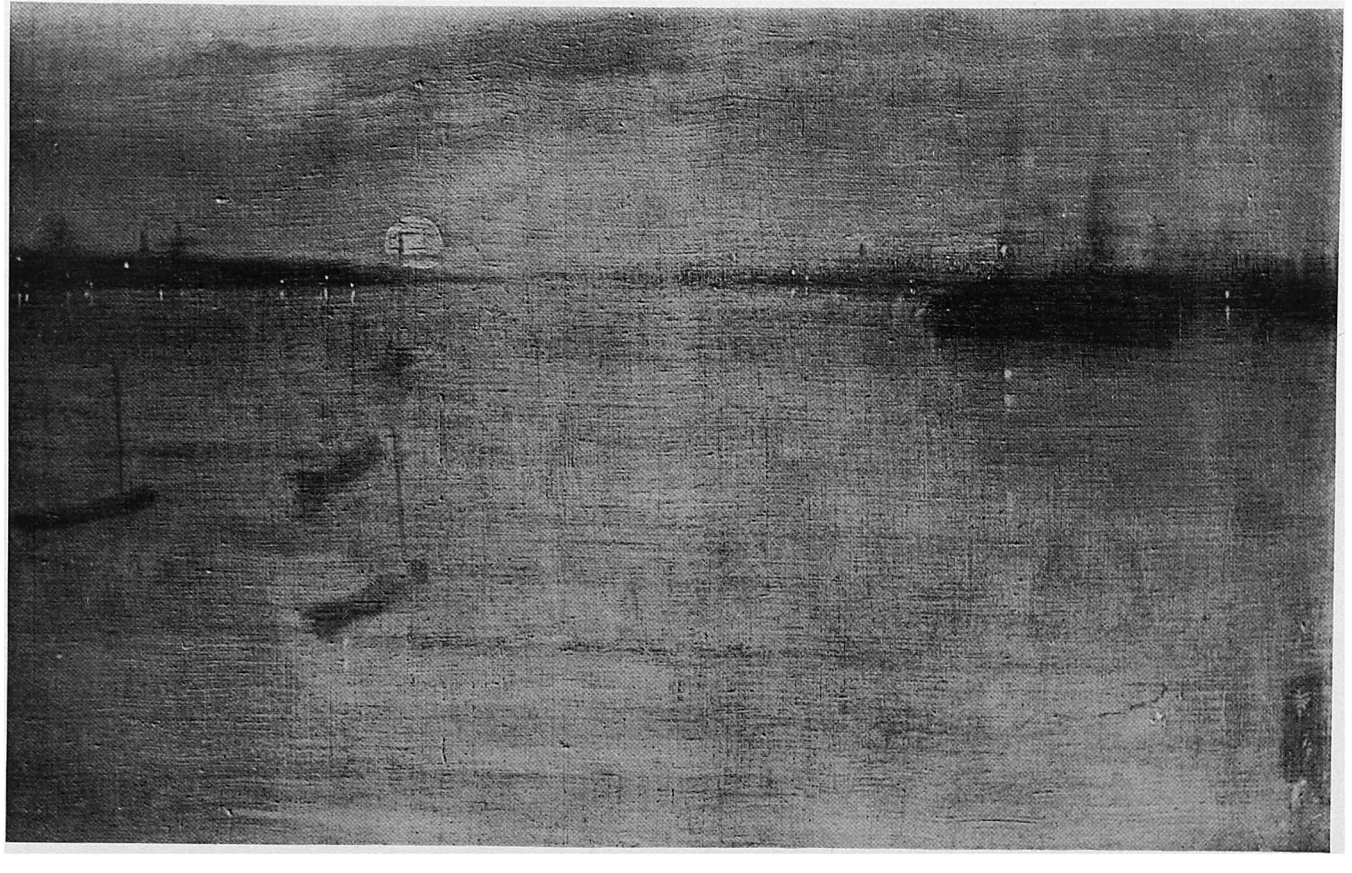
F. B. SHEAFER.

REFORM IN PUBLIC ADVERTISING

The American Park and Outdoor Art Association is so fully alive to the evils of the abuses of public advertising, and to the desirability of applying some remedy, that we shall confine ourselves to the discussion of means of relief, bearing in mind, however, that the evil to be suppressed is merely the unreasonable extension and abuse of a perfectly proper practice incident to modern business methods. To lose sight of this fact would lead us to overshoot the mark and defeat our ends by putting ourselves in opposition to common sense.

One flagrant and easily corrected abuse is the indiscriminate painting and placarding of advertisements, chiefly upon rocks, trees, fences, etc., along or near country roads, and upon fences and buildings in towns and cities, by irresponsible advertisers, without regard to property rights and without the sanction of the owners. Of course, such advertising upon private land without permission is trespass, and is punishable as such. The owner may remove the signs at his own pleasure, and hold the trespasser liable for the cost of removal, and also for damages that may have resulted from the trespass. All that is needed for the prevention of this form of the abuse is that the land-owners should have a reasonable regard for the enforcement of their own rights. Those who advertise extensively have established in many parts of the country the practice of securing the land-owners' permission for their disfigurements, paying a small rental for the privilege, which tends to make the land-owners rather strict about unauthorized sign-painting. In states where the posting of advertisements on private land without the consent of the owner is a serious evil, there should be a law declaring the advertisement prima facie evidence that the trespass was committed by or on behalf of the proprietor of the object advertised, and rendering the said proprietor liable for damages to the land-owner.

Where the advertisements are posted without authority within the limits of the highway, the remedy is not so generally known and recognized. Especially in the case of country highways the limit between the rights of the traveling public and the rights of the holders of the fee, usually the abutting land-owners, appears to be in some confusion, and varies in different states. A public authority in laying out a highway does not become the owner of the land, but merely takes the right to use the land for the purposes of a highway, thereby excluding the owner of the land from any use of it that might interfere with these purposes. In a city, where the whole width of the highway is needed, and is used for a great variety of purposes, the holder of the fee has left to him very little of value, except the generally recognized right to excavate the space under the sidewalks for a cellar. In the country, however, the purposes of a highway are ordinarily limited to the use of a convenient traveled way and a foot-path, frequently a line of telegraph or telephone poles, and occasionally a street railway. The remainder of the width condemned as a highway, until it may be needed for such purposes, is in a curious position. It is the custom in the country districts of Massachusetts, and in many other places, for the land-owner to cut and remove hay, firewood, or other products of this strip, on the theory that the use of these products is not among the rights included in the use of the land for highway purposes. In line with this it is assumed that the posting of advertisements is one of the private uses of land not interfered with by its use for a highway, that the right to post advertise-



BATTERSEA
BY JAMES McNEILL WHISTLER

ments within the limits of the highway is therefore under control of the land-owner, and that advertisements and signs, except those set up by public authorities in connection with the use of the highway, can be erected only by consent of the land-owner, just as upon his adjacent private land. The state of the law in Massachusetts is clearly defined in a statute passed at the instance of the trustees of public reservations of that state, which renders any one posting an advertisement upon the property of another, whether within or without the limits of the highway, without first obtaining the written consent of the owner or tenant of such property, punishable by a fine of ten dollars; and it further declares an advertisement so posted to be a public nuisance, which may be forthwith removed or obliterated and abated by any person.

While we believe this to be substantially the state of the law in most country districts, we feel compelled to say that the rights of the individual land-owner within the limits of the highway tend constantly to decrease, and the rights of the traveling public to increase, and that this change is a wise and healthy one. We believe, for instance, that shade-trees growing within the limits of the highway are now generally regarded as a part of the legitimate appurtenances of a highway, quite as much as telegraph-poles; that the laying out of a highway carries with it the right to maintain the trees that may come within its limits, and that therefore the land-owners have not the right, albeit sanctioned by usage in country districts, to cut the trees for their own profit and convenience without permission or regulation by the highway authorities. In the same way we are inclined to regard the exhibition not only of sign-boards for giving directions and distances, but of signs for any other purposes, as one of the uses of land properly included in the laying out of a highway, and to believe that the exercise of this right should be in the control of the highway authorities, and not at the discretion of the land-owners, as indicated by the Massachusetts statute. In states where this vagueness of control exists we should advocate the passage of an act fixing the full control over signs of all sorts within the limits of public ways—and also the full control over trees within the limits of public ways—in the hands of the proper local public authorities.

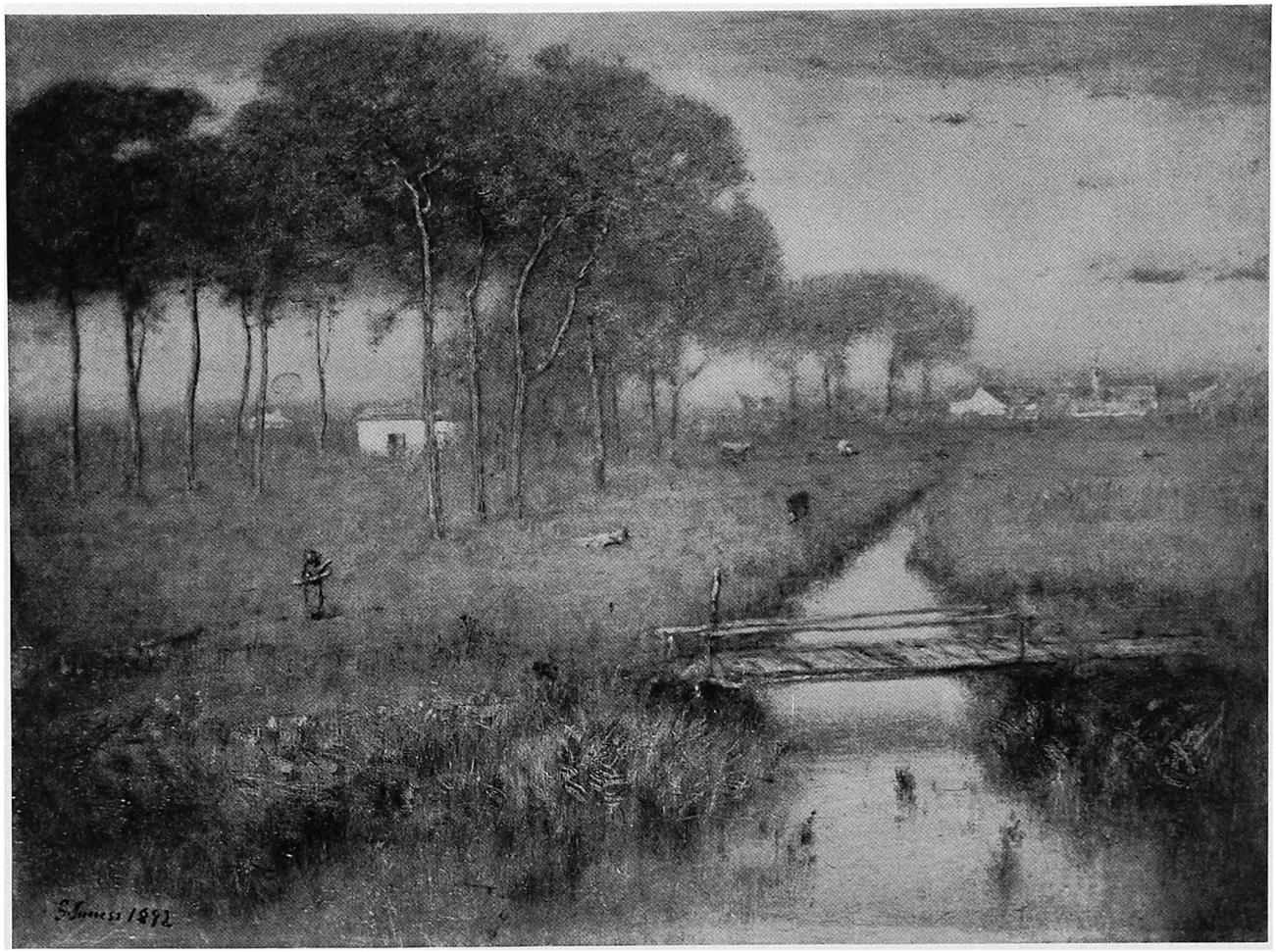
By far the greater part, however, of the obtrusive public advertising is done on private property with the full consent of the owner. The land-owners do not generally consider the signs ornamental or desirable in themselves, but they are willing to put up with them for a small consideration. If it came to be generally recognized that the community regarded most of these signs as an irritating nuisance, and that their display cast a marked stigma of sordid vulgarity upon the owner of the land—well, the consideration would have to be larger, and would tend to limit the extension of the practice.

The display of painted signs or posters is, within limits, a neces-

sary and desirable thing, and a general regulation prohibiting their display would be an utterly unreasonable and clearly unconstitutional interference with private rights. On the other hand, we know that such signs and posters can be so used as to be an offense to the public out of all proportion to the private interest in them, in which case regulation is surely called for. The point we have to consider is, where to draw the line; under what conditions can we consider it fair and reasonable for the public to intefere with a man's private rights in this matter, and under what conditions are the courts likely to sustain such interference.

The regulation of the display of advertising signs might be attempted on any one of several grounds; for instance, as has been proposed in Chicago, through a clause in the building regulations of a city prohibiting the erection of wooden signs or billboards above a certain size, or within a certain distance of each other, or of other structures, or of the street-line, on the ground of the danger of spreading fire; or they might be reduced in number by a high-license fee; but the fact of the matter is simply that they are offensive to the eye. Under certain conditions, as, for instance, along a parkway, or any other road where people go for the express object of avoiding offensive objects and distracting appeals to the attention, it seems to us that offensive sights displayed so as necessarily to arrest the attention are as clearly public nusiances as offensive noises so made as to disturb people in a place where they go for quiet, and that their abatement may justly be ordered without compensation.

The question of what is a nuisance and what is not seems to be wholly a matter of degree and of judgment, the courts of to-day, we understand, classing as nuisances many practices to which earlier courts found no objection. With the constant growth in civilization and refinement it is inevitable that human standards should change, and that people should be pleased by certain things formerly indifferent, and should feel themselves seriously aggrieved or injured by other things formerly passed over as trivial. The courts must be conservative, must lag behind public opinion in such matters, in order to avoid the danger of injustice which would arise from accepting as proper standards of action what might prove to be passing impulses, even though widespread. But where the community steadily adheres to the opinion that any given thing is a serious injury, the courts must ultimately rule that thing to be an injury, because injuries and benefits can be measured by no unchangeable scale, but only against the accepted standards of good and bad, that shift and change from generation to generation. We have been told by lawyers that there is doubt as to whether objects merely offensive to sight would be held by the courts to be nuisances, however obnoxious they might be. It seems to us that the time has already been reached in the development of civilization when a sufficient proportion of the people are



LANDSCAPE
BY GEORGE INNESS

sensitive to offensive sights to render such a sight, under certain conditions, a real public nuisance, one which the courts must soon recognize as such, even if they will not do so to-day.

A city, let us say, has spent a million dollars, or two million, or five million, as the case may be, in forming a great park with the main object of providing a region of quiet, rural scenery, to which people can escape for rest from the worrying distractions and the ceaseless turmoil of city life. These millions are expended so that from the incessant calls upon the attention that set the strain of modern city life at so tense a pitch there may be at least a temporary relief in the quiet enjoyment of simple, restful, peaceful scenery that does not clamor even to be admired. But if in going to the park and returning home again the people must fight their whole way through busy city streets, full of distracting movements, sights, and noises, they reach home with nerves all set on edge again, and much of the value of the park is wasted. It is therefore to conserve the full value of its investment in the park that the city undertakes the additional expense of a parkway which shall provide a main line of approach, attractive in itself and free, as far as possible, from features irritating to the nerves. For this purpose land is taken and paid for; for this purpose additional sums are spent in construction and planting, and swarms of tired people seeking quiet and rest pass along the route thus prepared.

Incidentally, the adjacent land is given a frontage upon the parkway and made visible to these people. The land-owners then erect signs, constructed and painted with the most devilish ingenuity to catch the eye at every turn, to cry out as loud as color and form and size can be made to cry: "Here we are! You can't get away from us! Look here! look here! look here!" Ugly and crude in the main, though sometimes not ill-designed in themselves, these signs obtrude all sorts of sordid ideas upon the mind, and will not let it rest. Distraction is their aim, the very reverse of the motive which was held to justify the cost of the parkway.

The land was valueless as a place for displaying advertisements until the parkway was laid out, and yet this value, created wholly by the municipal expenditure on the parkway, is so used for private gain as to impair the object for which the expenditure was incurred. There can be no equity in such a state of things, and we cannot but believe that the courts would sustain a properly drawn regulation prohibiting this outrageous imposition on the public. The park department of the city of New York has been empowered by act of legislature to regulate advertising displays upon land fronting on the parks, but so far as we can learn the courts have never passed upon the constitutionality of this act.

We recommend that the American Park and Outdoor Art Association, in conjunction with some municipal organization, such as the

Art Association of Chicago, endeavor to secure the adoption by a park commission, acting under proper legislative authority, of carefully drawn regulations governing in a clearly reasonable and moderate manner the display of advertising signs upon property fronting on the parks and open spaces under its control. The regulations and the form of the authority for passing them should be carefully examined by counsel before they are submitted for passage, so that a clear and favorable test case might be presented under them to the courts, on the simple question whether the use of private property can, under any circumstances, be lawfully limited solely on account of the appearance presented to the public. That point once clearly established by the courts, the question of the precise limits of reasonable control can then be worked out, not only as regards advertisements, but as regards many other matters vitally affecting the beauty of our daily surroundings.

It might be found reasonable to prohibit the exhibition upon the borders of parks and parkways of any advertising signs whatever beyond those relating to business carried on upon the premises or to the sale or renting of the property; it might be found reasonable to impose similar restrictions upon certain designated residence streets of a city; and country towns might very reasonably be granted local option as to whether they would permit the erection of signs advertising matters not pertaining to the property on which they were erected. Such local option would be gladly accepted by many resorts where the people have learned that agreeable and unmutilated scenery has a cash value. All these matters, however, bordering as they do upon the limits of reasonable control, ought not to be entered upon until, under the most favorable conditions, the courts have been induced to give definite sanction to the principle, which we believe to be just and sound, that violent offenses against the esthetic sense of the community are capable of becoming public nuisances, subject to abatement without compensation.

Municipal art associations in many cities, and such organizations as the Appalachian Mountain Club and the Trustees of Public Reservations of Massachusetts, the National Arts Club of New York, and the Public Art League of Washington, have made protests against the abuses which we condemn. These, and many private individuals who hold the same general opinions, would be able to work far more effectively with a little coöperation and an understanding of each other's points of view. FREDERICK LAW OMSTED, JR.

NOTE.—The above is an abridgment of a report read at the annual meeting of the American Park and Outdoor Art Association held recently in Chicago.